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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,568	09/26/2003	Ofir Mazar	Ma-1	8831

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EXAMINER

HUYNH, KHOA D

ART UNIT PAPER NUMBER

3751

DATE MAILED: 04/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/672,568

Applicant(s)

MAZAR, OFIR

Examiner

Khoa D. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 09/26/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the pre-formed clips as recited in claims 14 and 15 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 15 is objected to because of the following informalities: claim 15 depends on claim 14 and recites similar, if not identical, limitations as claim 14. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 depends on claim 14 and recites identical limitation as of claim 14. Thus, it is unclear what structural limitations applicant intends to cover in claim 15.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-4, 6, 7 and 11-15, as presently understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Hodak (6618867).

Regarding claims 1 and 11, the Hodak reference discloses a swimming pool. The pool includes an upstanding sidewall (14,18,20) and a built-in thermometer (40). The thermometer includes a measuring portion (41) immersed in water and a scale portion (Fig. 5) located out of water.

All functional and intended use statements have been fully considered. They are, however, deemed not to impose any structural limitation distinguishable over the Hodak pool that is capable of being used as a bathtub for bathing purposes.

Regarding claim 2, the thermometer is mounted in recess (43) preformed in the wall.

Regarding claim 3, the thermometer is releasably snap fit into the recess by using magnet (at 46).

Regarding claim 4, the thermometer is permanently mounted using adhesive (46).

Regarding claim 6, the thermometer is an angled thermometer (as shown in Figures 5 & 6, the thermometer is at a generally 90 degree angle with respect to element 18).

Regarding claim 7, the thermometer is mounted flush with part of the wall (as schematically shown in Figures 4 and 6, the top portion of the thermometer is flush with part of the wall at 18).

Regarding claims 12 and 13, the method as claimed would be inherent during the normal use and operation of the Hodak device.

Regarding claims 14 and 15, as best understood with proper support from the drawings, the thermometer is mounted into the "clip" (at 43) preformed in the wall of the pool using magnet.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 5, as presently understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Hodak in view of Parker (3965742).

The Hodak reference DIFFERS in that it does not specifically disclose that the thermometer is a digital thermometer as claimed. Attention, however, is

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directed to the Parker reference which discloses a digital thermometer (Figs. 1, 3, 4) which is desired to be used in a pool or other hydraulic environment. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Hodak reference by employing a digital thermometer, in view of the teaching of Parker, in order to facilitate a rapid read out of the temperature since digital thermometer provides numerical indicia.

9. Claims 1 and 8-10, as presently understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Lopes et al. (6578209) in view of Blaney (6105618).

Regarding claims 1 and 8, the Lopes et al. reference discloses a plastic-formed tub for bathing an infant. The tub includes an upstanding sidewall (about 26 in Fig. 5) and a built-in temperature indicator or thermometer (36). The thermometer includes first portion (38,46) contacted or immersed in water and a second portion (at 52) located out of water.

The Lopes et al. reference DIFFERS in that it does not specifically disclose that the first portion is a measuring portion and the second portion a scale portion as claimed. Attention, however, is directed to the Blaney reference which discloses a plug (at 10) for a bathtub. The plug includes a measuring portion (13) and a scale portion (14) for indicating the temperature of the water. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Lopes et al. reference by employing a plug having a measuring portion and a scale portion, in view of the

teaching of Blaney, in order to provide a warning to the user of the currently water temperature and therefore, possibly prevent accidental burning.

Regarding claims 9 and 10, the thermometer (36) is mounted flush in a recess (the not shown drain hole) preformed in the wall of the tub (Fig. 5)

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Haswell et al. was cited to show a collection receptacle having a built-in thermometer. DE 29900165 was cited to show a digital thermometer for measuring the water temperature of a bath. JP 08000488 was cited to show a bathtub with built-in temperature indicator.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (703) 306-5483. The examiner can normally be reached on M-F (7:00-4:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoa D. Huynh  
Patent Examiner  
Art Unit 3751

HK  
04/03/04